



# Agenda

FINANCE COMMITTEE MEETING  
CITY COUNCIL CHAMBERS  
MAY 3, 2010 – 5:00 PM

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. APPROVAL OF CONSENT AGENDA
5. APPROVAL OF MINUTES:

CITY CLERK'S OFFICE

DATE 4-30-10 TIME 1:20

SERVED BY [Signature]

RECEIVED BY [Signature]

APRIL 19, 2010

## INFORMATIONAL ITEM

6. UPDATE ON F/Y 09/10 BUDGET

## CONSENT AGENDA

7. BID OPENINGS:
  - A. BID NO. 10/33/B – RETROFIT AND/OR REPLACE EXISTING LIGHTING AT CITY FACILITIES WITH ENERGY EFFICIENT LIGHTING; OMEGA CONTRACTORS, INC. (NICHOLAS SCHIAVO)
  - B. BID NO. 10/34/B – WATER AND SEWER MAIN EXTENSION AND CHANGE ORDER NO. 1; SUB SURFACE CONTRACTING, INC. (STAN HOLLAND)
  - C. BID NO. 10/35/B – OLD PECOS TRAIL SIDEWALK IMPROVEMENTS – CORDOVA ROAD TO BERGER STREET; STREET WIDENING – BARCELONA ROAD TO CORONADO ROAD AND CONSTRUCTION CONTRACT; STAR PAVING COMPANY (SANDRA WINKELMAIER)
8. REQUEST FOR APPROVAL OF AMENDMENT TO LICENSE AGREEMENT- USE OF UPPER DECK OF THE PORTAL APPURTENANT TO 60 E. SAN FRANCISCO STREET AS A SERVICE TO ADJOINING BUSINESS NAMED MARBLE BREWERY; 60 EAST SAN FRANCISCO STREET LTD. CO. (EDWARD VIGIL)
9. REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO LEASE AGREEMENT – REVISED METHOD FOR CALCULATING PAYMENT IN LIEU OF PROPERTY TAX (PILOT); NEW MEXICO RIDGETOP ROAD LLD (KELLEY BRENNAN)



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CITY COUNCIL CHAMBERS  
MAY 3, 2010 – 5:00 PM

10. REQUEST FOR APPROVAL TO INSTALL STREET LIGHTS AND POSTPONE CONSIDERATION OF ELECTRICAL PANEL (CHIP LILIENTHAL)
11. UPDATE ON COMPREHENSIVE SOLID WASTE MANAGEMENT PLAN (RANDALL KIPPENBROCK)
12. REQUEST FOR APPROVAL OF GRANT AGREEMENT – PURCHASE EQUIPMENT FOR FIREFIGHTERS; FEDERAL EMERGENCY MANAGEMENT AGENCY (ASSISTANT FIRE CHIEF ERIK LITZENBERG)

A. REQUEST FOR BUDGET INCREASE – GRANT FUND

13. REQUEST FOR APPROVAL OF A RESOLUTION AMENDING RESOLUTION NO. 2003-87 – REGARDING THE BICYCLE AND TRAIL ADVISORY COMMITTEE (COUNCILOR BUSHEE) (BOB SIQUEROS)

**Committee Review:**

Bicycle & Trails Advisory Committee (Approved)	4/22/10
Public Works (Approved)	4/26/10
Council (Scheduled)	5/12/10

Fiscal Impact – No

14. REQUEST FOR APPROVAL OF A RESOLUTION ESTABLISHING CRITERIA FOR THE CONSIDERATION OF RESTRICTED TRUCK, TRUCK TRAILER AND OTHER LARGE VEHICLE TRAFFIC ON CITY STREETS OTHERWISE KNOWN AS TRUCK BANS (COUNCILOR ROMERO) (RICK DEVINE)

**Committee Review:**

Public Works (Approved)	4/12/10
Public Safety (Approved)	4/20/10
Council (Scheduled)	5/12/10

Fiscal Impact – Yes

*END OF CONSENT AGENDA*



# Agenda

FINANCE COMMITTEE MEETING  
CITY COUNCIL CHAMBERS  
MAY 3, 2010 – 5:00 PM

## EXECUTIVE SESSION

15. DISCUSSION PERTAINING TO (A) THREATENED OR PENDING LITIGATION IN WHICH THE CITY IS OR MAY BECOME A PARTICIPANT PURSUANT TO § 10-15-1.H (7) NMSA 1978 AND (B) THE PURCHASE, ACQUISITION OR DISPOSAL OF REAL PROPERTY PURSUANT TO § 10-15-1.H (8) NMSA 1978, BOTH MATTERS RELATING TO THE SANTA FE RAILYARD. (GENO ZAMORA AND KELLEY BRENNAN)

## ACTION ITEM

16. REQUEST FOR APPROVAL OF A RESOLUTION DIRECTING STAFF TO EXPLORE AND PURSUE THE LEASE BY THE CITY OF OFFICE SPACE AT MARKET STATION AT THE RAILYARD (COUNCILOR ORTIZ) (KELLEY BRENNAN)

### Committee Review:

Public Works (Tabled)

4/26/10

Council (Scheduled)

5/12/10

## DISCUSSION

17. OTHER FINANCIAL INFORMATION:
18. MATTERS FROM THE COMMITTEE
19. ADJOURN

Persons with disabilities in need of accommodations, contact the City Clerk's office at 955-6520 five (5) working days prior to meeting date.

SUMMARY OF ACTION  
FINANCE COMMITTEE MEETING  
Monday, May 3, 2010

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
CALL TO ORDER AND ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved [amended]	1-2
APPROVAL OF CONSENT AGENDA	Approved [amended]	2
CONSENT AGENDA LISTING		2-3
APPROVAL OF MINUTES: APRIL 19, 2010, REGULAR FINANCE COMMITTEE MEETING	Approved	3
<u>INFORMATIONAL ITEMS</u>		
UPDATE ON COMPREHENSIVE SOLID WASTE MANAGEMENT PLAN	Information/discussion	3-5
<u>CONSENT CALENDAR DISCUSSION</u>		
REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO LEASE AGREEMENT – REVISED METHOD FOR CALCULATING PAYMENT IN LIEU OF PROPERTY TAX (PILOT); NEW MEXICO RIDGETOP ROAD, LLD	Approved w/condition	5-6
REQUEST FOR APPROVAL TO INSTALL STREET LIGHTS AND POSTPONE CONSIDERATION OF ELECTRICAL PANEL	Approved	6
REQUEST FOR APPROVAL OF A RESOLUTION AMENDING RESOLUTION NO. 2003-87 – REGARDING THE BICYCLE AND TRAIL ADVISORY COMMITTEE	Approved	6-7
REQUEST FOR APPROVAL OF A RESOLUTION ESTABLISHING CRITERIA FOR THE CONSIDERATION OF RESTRICTED TRUCK, TRUCK TRAILER AND OTHER LARGE VEHICLE TRAFFIC ON CITY STREETS, OTHERWISE KNOWN AS TRUCK BANS	Approved	7
*****		
END OF CONSENT CALENDAR DISCUSSION		
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<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
EXECUTIVE SESSION – DISCUSSION PERTAINING TO: (A) THREATENED OR PENDING LITIGATION IN WHICH THE CITY IS OR MAY BECOME A PARTICIPANT PURSUANT TO §10-15-1(H)(7) NMSA 1978; AND (B) THE PURCHASE, ACQUISITION OR DISPOSAL OF REAL PROPERTY PURSUANT TO §10-15-1(H)(8) NMSA 1978, BOTH MATTERS RELATING TO THE SANTA FE RAILYARD	Approved	8
MOTION TO COME OUT OF EXECUTIVE SESSION	Approved	8
<u>INFORMATIONAL ITEM</u>		
UPDATE ON FY 09/10 BUDGET	Information/discussion	9-10
<u>ACTION ITEM</u>		
REQUEST FOR APPROVAL OF A RESOLUTION DIRECTING STAFF TO EXPLORE AND PURSUE THE LEASE BY THE CITY OF OFFICE SPACE AT MARKET STATION AT THE RAILYARD	Remand to Public Works	10-16
OTHER FINANCIAL INFORMATION	None	16
MATTERS FROM THE COMMITTEE	Information	16
ADJOURN		17

**MINUTES OF THE  
CITY OF SANTA FE  
FINANCE COMMITTEE**  
Monday, May 3, 2010

**1. CALL TO ORDER**

A meeting of the City of Santa Fe Finance Committee was called to order by Acting Chair Rebecca Wurzburger, at approximately 5:00 p.m., on Monday, May 3, 2010, in the Council Chambers, City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico.

**2. ROLL CALL**

**MEMBERS PRESENT:**

Councilor Matthew E. Ortiz, Chair  
Councilor Patti J. Bushee  
Councilor Carmichael A. Dominguez  
Councilor Rosemary Romero  
Councilor Rebecca Wurzburger

**OTHER GOVERNING BODY MEMBERS PRESENT:**

Mayor David Coss

**OTHERS ATTENDING:**

Kathryn Raveling , Acting Finance Director  
Laura Vigil, Finance Division  
Melessia Helberg, Stenographer.

There was a quorum of the membership in attendance for the conducting of official business.

**NOTE: All items in the Committee packets for all agenda items are incorporated herewith by reference. The original Committee packet is on file in the Finance Department.**

**3. APPROVAL OF AGENDA**

Chair Wurzburger asked to hold Item #6 until Chair Ortiz arrives, and would like to move this item to be heard after the executive session.

Councilor Romero asked to move Item #11 from the Consent Calendar to the Informational Items, and Chair Wurzburger said it can be heard first under the Information Agenda.

**MOTION:** Councilor Romero moved, seconded by Councilor Bushee, to approve the agenda, as amended.

**VOTE:** The motion was approved on a voice vote, with Councilors Bushee, Dominguez and Romero voting in favor of the motion, no one against, and Chair Ortiz absent for the vote.

#### **4. APPROVAL OF CONSENT AGENDA**

**MOTION:** Councilor Romero moved, seconded by Councilor Bushee, to approve the following Consent Agenda, as amended.

**VOTE:** The motion was approved on a voice vote, with Councilors Bushee, Dominguez and Romero voting in favor of the motion, no one against, and Chair Ortiz absent for the vote

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#### **CONSENT AGENDA**

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#### **7. BID OPENINGS:**

- A. **BID NO. 10/33/B – RETROFIT AND/OR REPLACE EXISTING LIGHTING AT CITY FACILITIES WITH ENERGY EFFICIENT LIGHTING; OMEGA CONTRACTORS, INC. (NICHOLAS SCHIAVO)**
  - B. **BID NO. 10/34/B – WATER AND SEWER MAIN EXTENSION AND CHANGE ORDER NO. 1; SUB SURFACE CONTRACTING, INC. (STAN HOLLAND)**
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8. **REQUEST FOR APPROVAL OF AMENDMENT TO LICENSE AGREEMENT – USE OF UPPER DECK OF THE PORTAL APPURTENANT TO 60 E. SAN FRANCISCO STREET AS A SERVICE TO ADJOINING BUSINESS NAMED MARBLE BREWERY; 60 EAST SAN FRANCISCO STREET LTD., CO. (EDWARD VIGIL)**
9. *[Removed for discussion by Councilor Bushee]*
10. *[Removed for discussion by Councilor Bushee]*
11. *[Removed to the informational agenda at the request of Councilor Romero]*

12. REQUEST FOR APPROVAL OF A GRANT AGREEMENT – PURCHASE EQUIPMENT FOR FIREFIGHTERS; FEDERAL EMERGENCY MANAGEMENT AGENCY. (ASSISTANT FIRE CHIEF ERIK LITZENBERG)
  - A. REQUEST FOR BUDGET INCREASE – GRANT FUND.

13. *[Removed for discussion by Councilor Bushee]*

14. *[Removed for discussion by Councilor Bushee]*

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#### END OF CONSENT AGENDA

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#### 5. APPROVAL OF MINUTES: APRIL 19, 2010, REGULAR FINANCE COMMITTEE MEETING

**MOTION:** Councilor Bushee moved, seconded by Councilor Dominguez, to approve the minutes of the Regular Finance Committee Meeting of April 19, 2010, as presented.

**VOTE:** The motion was approved on a voice vote, with Councilors Bushee, Dominguez and Romero voting in favor of the motion, no one against, and Chair Ortiz absent for the vote.

#### INFORMATIONAL ITEM

#### 11. UPDATE ON COMPREHENSIVE SOLID WASTE MANAGEMENT PLAN. (RANDALL KIPPENBROCK)

Randall Kippenbrock, Executive Director, SWMA, presented information from his Memorandum dated April 20, 2010, to the Public Works Committee, with attached update on the Solid Waste Management Plan, which is in the Committee packet. Please see this document for specifics of this presentation.

Mr. Kippenbrock said in 2006 SWMA took over the City's transfer station, BuRRT, and moved all of the recycling program, with the purpose to provide a one-stop standard for customer as well as requiring small vehicles to use the transfer station for efficiency and safety. In 2007, when the MRF was started, they started a process to recycle material from the City and County. Since February 2007, 36 million pounds of recyclable material have been processed, which is about \$750,000 in revenues annually and one month of landfill air space saved per year. He said they have diverted 39,000 tons – 19,000 tons of conventional material, 4,500 tons of glass, 720 tons of tires and 19,500 tons of green waste – 6 ½ % of the total, saving 3 months of air space at the landfill over 3 years. Mr. Kippenbrock believes they can do better with the Solid Waste Plan which will allow them to do more positive things.

Mr. Kippenbrock said, although the landfill has long term capacity, the geological condition with the basalt rock at the landfill presents ongoing operational and financial operations. Mr. Kippenbrock said the



City has a composting facility at its wastewater treatment plant, but it hasn't reached its full potential. Mr. Kippenbrock said the use of incentives to stimulate waste reduction isn't fully utilized.

Mr. Kippenbrock hopes in the next 3 years that they focus on improving and enhancing existing recycling programs before commencing new programs, that we fully utilize the MRF at BuRRT, and improve and increase the education and outreach components. He said, with regard to solid waste finance, there needs to a balance between the landfill and BuRRT which are competing for the same commodity.

Mr. Kippenbrock said, in the short term, the waste structure should be designed to provide incentives for waste diversion and recycling. Hopefully, the plan will have long range planning to implement other types of diversion such as construction debris and [inaudible] recycling. The long range plan should be 20 years. He said alternative waste technologies still have a long way to go.

Councilor Wurzbarger said she appreciates the report which is very helpful. She understands and appreciates that SWMA is going back to the table to make sure that we have looked at every option for not raising rates in the short term.

Councilor Romero thanked Mr. Kippenbrock. She said the SWMA is organized through a Joint Powers Agreement and Mr. Kippenbrock is an employee of that Authority. She said the SWMA Board is looking carefully at all issues. She said there have been issues in budgeting because of the difficult financial times in the past two years. She said the construction industry is down and that has impacted construction waste coming to the landfill. She said SWMA also was impacted in that no out-of-region waste was accepted.

Councilor Romero said Mr. Kippenbrock's modeling has been proved to be accurate and "right on." She said Jason Mumm did a quick review and will be doing a subsequent review. She reiterated SWMA is looking at all possibilities and the difficult economic times have impacted both the City and the County.

Councilor Bushee asked if the proposed plan will be for SWMA and how does the City's Solid Waste Department participate, other than the SWAC, and is there a coordination between the two entities for this plan.

Mr. Kippenbrock said there is coordination. The SWAC has briefly looked at the City's and County's operations, and there will be recommendations as to how the City can improve its waste diversion and recycling programs, etc.

Councilor Bushee asked what are the goals for waste diversion, particularly the recyclables for SWMA, noting the City's goal is 33%.

Mr. Kippenbrock said there is no goal set. He said what came out of SWAC is to come up with a reasonable way to calculate diversion, noting there are different ways of coming up with a number, and everybody wants to be on the same page.

Councilor Bushee asked what percentage of waste to the landfill comes from the City.

Mr. Kippenbrock said about 50% is being collected by the City's Solid Waste Division.

Councilor Bushee said then the private collections go to the landfill as well.

Mr. Kippenbrock said there are 5 major players – City of Santa Fe, Waste Management, residential on the outside, and the Santa Fe County waste, etc.

Councilor Bushee asked what portion of the overall waste stream comes to the landfill from the City.

Mr. Kippenbrock said he doesn't have that answer, but it probably could be as high as 80%. He said it is 60% City and 40% County at BuRRT.

Councilor Bushee would like that information by the time that goes to Public Works Committee.

Councilor Bushee is interested in the green waste collection and how to divert it, and the Household Hazardous Waste pickup, not necessarily building a facility.

Councilor Romero said the City of Santa Fe Solid Waste staff and the public are welcome to attend the SWMA meetings, and she would like to see Committee members attend. She said Mr. Kippenbrock has sufficient information to be more proactive by getting information out to the public about green waste and household hazardous waste. She said the people who contacted her about household hazardous waste stockpile batteries and other such materials in their backyard, which is very unsafe. She said they are thinking carefully about how to protect the environment, such as how to address items which are inappropriately stockpiled on a long term basis. She hopes Mr. Kippenbrock will speak specifically about how we are dealing with issues around household hazardous waste and some of the pro-active things SWMA is doing.

Chair Wurzbarger thanked Mr. Kippenbrock for his presentation.

## **CONSENT CALENDAR DISCUSSION**

### **9. REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO LEASE AGREEMENT – REVISED METHOD FOR CALCULATING PAYMENT IN LIEU OF PROPERTY TAX (PILOT); NEW MEXICO RIDGETOP ROAD, LLD. (KELLY BRENNAN)**

Councilor Bushee asked who paid for the new appraisal system.

Ms. Brennan said Thornburg paid for that.

Councilor Bushee asked if Thornburg is "cool" with paying more than what was anticipated, and Ms. Brennan said yes.

**MOTION:** Councilor Bushee moved, seconded by Councilor Dominguez, to approve this request.

**VOTE:** The motion was approved on a voice vote, with Councilors Bushee, Dominguez and Romero voting in favor of the motion, no one against, and Chair Ortiz absent for the vote.

**10. REQUEST FOR APPROVAL TO INSTALL STREET LIGHTS AND POSTPONE CONSIDERATION OF ELECTRICAL PANEL. (CHIP LILIENTHAL)**

Councilor Bushee said then the City is only going to install the street lights and will not do anything other than paint the electrical panel after Fiesta.

Mr. Lilienthal said the electrical panel has already been painted, and after Fiestas he will bring forward any recommendations for reducing the size, etc., of the electrical panel, and he will be working with SHPO to do that.

**MOTION:** Councilor Bushee moved, seconded by Councilor Romero, to approve this request

**DISCUSSION:** Councilor Romero thanked Mr. Lilienthal for his work on this project, and believes the concerns at Public Works have been addressed. She said the Public Works minutes were very unclear and it was easy to be confused. She said this is all, "Interim, interim, interim."

**VOTE:** The motion was approved on a voice vote, with Councilors Bushee, Dominguez and Romero voting in favor of the motion, no one against, and Chair Ortiz absent for the vote.

**13. REQUEST FOR APPROVAL OF A RESOLUTION AMENDING RESOLUTION NO. 2003-87 – REGARDING THE BICYCLE AND TRAIL ADVISORY COMMITTEE (COUNCILOR BUSHEE). (BOB SIQUEIROS). Committee Review: Bicycle & Trail Advisory Committee (Approved) 4/22/10; Public Works (Approved) 4/26/10; and Council (Scheduled) 5/12/10. Fiscal Impact – No.**

Councilor Bushee said this needs to be a substitute bill at a certain point.

Ms. Price said she spoke with Colleen Baker at the County about the County's Open Space Committee, and Ms. Baker was unable to give her a definitive answer. However, Ms. Baker said she will think about how to have more coordination with BTAC. She said there is one position which has to be a City resident.

Councilor Bushee said this item has been going through the Committees, including BTAC, who amended it, and corrected language. She said her suggestion was to see if there is someone at the

County who knows what County funds would be available to put toward these trails, and to look at a regional way to do it.

**MOTION:** Councilor Bushee moved, seconded by Councilor Romero, approve this request, with direction to staff to prepare a substitute bill by the time this goes to the Council.

**VOTE:** The motion was approved on a voice vote, with Councilors Bushee, Dominguez and Romero voting in favor of the motion, no one against, and Chair Ortiz absent for the vote.

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**MOTION:** Councilor Bushee moved, seconded by Councilor Romero, to reconsider the previous action to approve the Consent Agenda as amended; to remove Item #14 on the Consent Agenda for discussion; and to approve the Consent Agenda as amended..

**VOTE:** The motion was approved on a voice vote, with Councilors Bushee, Dominguez and Romero voting in favor of the motion, no one against, and Chair Ortiz absent for the vote.

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14. **REQUEST FOR APPROVAL OF A RESOLUTION ESTABLISHING CRITERIA FOR THE CONSIDERATION OF RESTRICTED TRUCK, TRUCK TRAILER AND OTHER LARGE VEHICLE TRAFFIC ON CITY STREETS, OTHERWISE KNOWN AS TRUCK BANS (COUNCILOR ROMERO). (RICK DEVINE). Committee Review: Public Works (Approved) 4/12/10; Public Safety (Approved) 4/20/10; and Council (Scheduled) 5/12/10. Fiscal Impact – Yes.**

Councilor Bushee said regarding, page 2, lines 15-17, she understood all of the criteria that were developed with staff. However, rather than the 30% requirement for a petition, she would prefer a system where staff deals with this, make sure all criteria is met, and that it be reviewed by a technical advisory committee.

**MOTION:** Councilor Romero moved, seconded by Councilor Bushee, to approve this request, and striking language on page 2, lines 15-7, and adding language creating a technical advisory committee composed of City staff to review the request against criteria.

**VOTE:** The motion was approved on a voice vote, with Councilors Bushee, Dominguez and Romero voting in favor of the motion, no one against, and Chair Ortiz absent for the vote

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## **END OF CONSENT CALENDAR DISCUSSION**

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## **EXECUTIVE SESSION**

15. **DISCUSSION PERTAINING TO: (A) THREATENED OR PENDING LITIGATION IN WHICH THE CITY IS OR MAY BECOME A PARTICIPANT PURSUANT TO §10-15-1(H)(7) NMSA 1978; AND (B) THE PURCHASE, ACQUISITION OR DISPOSAL OF REAL PROPERTY PURSUANT TO §10-15-1(H)(8) NMSA 1978, BOTH MATTERS RELATING TO THE SANTA FE RAILYARD. (GENO ZAMORA AND KELLEY BRENNAN)**

**MOTION:** Councilor Bushee moved, seconded by Councilor Romero, that the Finance Committee go into Executive Session for the purpose of discussion of pending or threatened litigation in which the City is or may become a participant pursuant to §10-15-1(H)(7) NMSA 1978, and the purchase, acquisition or disposal of real property pursuant to §10-15-(H)(8) NMSA 1978, both matters relating to the Santa Fe Railyard.

**VOTE:** The motion was approved on the following roll call vote:

**For:** Councilor Bushee, Councilor Dominguez, Councilor Romero and Councilor Wurzburger.

**Against:** None.

**Absent:** Chair Ortiz

The Finance Committee went into Executive Session at 5:30 p.m.

*Councilor Ortiz arrived at the meeting during the Executive Session*

## **MOTION TO COME OUT OF EXECUTIVE SESSION**

The Committee discussed the appropriate wording of the Motion to come out of Executive Session, and following direction by City Attorney Geno Zamora, the following motion was made and seconded:

**MOTION:** At 7:20 p.m. Councilor Wurzburger moved, seconded by Councilor Bushee, that the Finance Committee come out of Executive Session, and stated that the discussion was not in support of the Resolution as noticed and a Substitute Resolution which includes the option of a lease was discussed and given to staff for further exploration, that the Committee discussed both items which were on the published agenda, and no decisions were made and no action was taken with respect to either of the items.

**VOTE:** The motion was approved unanimously on a voice vote with Councilors Bushee, Dominguez, Romero and Wurzburger voting for the motion and no one voting against.

## **INFORMATIONAL ITEM**

### **6. UPDATE ON FY 09/10 BUDGET**

Kathryn Raveling said they have been working with the departments and the divisions on their budget submittals, reviewing them and meeting with the departments and divisions. She said the budget process will review what happened in the prior year. She said she met with the Mayor, Mr. Millican and Mr. Romero and discussed some of the issues. She said the City Manager has been integrally involved in the budget process, and she has had specific direction from him, and he will be very clear when makes the presentations tomorrow. She said his direction was to go back to base, see where we are, and that leaves a gap of about \$9 million in the General Fund, and how to resolve that will be one of the focuses of the budget discussion.

Ms. Raveling said the City Manager has put together a list of a lot options, which she believes will be a good list from which to work. The focus will also be on the economy and the status of the City's GRTs and Lodger's Taxes, which she believes will be the most significant issues as we discuss the budget process.

Ms. Raveling said the current year and the next year looks at using some cash balances. She said her warning is that there are cash balances available, but it is a "band aid," and doesn't fix the real problem if the economy continues in the current manner. She said the City Manager asked her to look at the last fiscal year the City's GRTs and Lodger's taxes were this low, and it's been about 5 years.

Ms. Raveling said this has been an extraordinary time, and she has never seen anything like this in the 16 years she's done the City's budget. She said previously it was a short term thing, but we are in the third year of hard economic times.

Ms. Raveling said Committee members should feel free to call her or email her with any questions, and she will try to get the answers by the next meeting.

Councilor Wurzbarger commented on the summary provided by Mr. Romero. She is concerned with the statement in the Memorandum that "the State required reserve in the General Fund can be maintained." She said the Council has argued over the past year that it's not the State mandated reserve we are interested in maintaining, and that we are interested in maintaining much more than that because we don't believe that the economic downturn is over, and we are not prepared to move forward with using additional reserves. Secondly, she will be asking what is the contingency plan. She said if we base revenue on the current trend, it will be down or flat, so she wants to know the contingency for the final two months if the taxes don't come in as hoped.

Councilor Romero said Mr. Romero had said previously that the actual reserves were unclear. She would like a confirmation of what is actually in reserves. She has heard other governmental units talking about criteria for these "rainy day," reserves. She would hope this body would revisit the criteria for using reserves.

Ms. Raveling said other funds also have reserves, and if we don't use the reserves, which she doesn't like to do, the decisions get harder.

Responding to Councilor Bushee, Chair Ortiz said there is a \$7 million reserve in the health fund and a \$5 million reserve in the General Fund, over and above the State required reserves, and Mr. Romero will be presenting that information tomorrow. He said the reason there is a reserve in the health fund is because the City is self insured and we are building that balance. There have been years when we had to borrow from the General Fund to put into the health fund.

Chair Ortiz said the City Manager is taking a different approach, and he will be asking philosophical, general question in terms of proposed cuts for this year which could illuminate and dictate the department budgets if we make decisions on the City Manager's recommendations.

### **ACTION ITEM**

- 16. REQUEST FOR APPROVAL OF A RESOLUTION DIRECTING STAFF TO EXPLORE AND PURSUE THE LEASE BY THE CITY OF OFFICE SPACE AT MARKET STATION AT THE RAILYARD (COUNCILOR ORTIZ). (KELLEY BRENNAN) Committee Review: Public Works (Tabled) 4/26/10; and Council (Scheduled) 5/12/10.**

Chair Ortiz said a Substitute Resolution has been prepared by staff, which we have all seen. He understands the Mayor will cosponsor the proposed Resolution which has been put forward as a substitute. He said there has been lengthy discussion about this item, and understands this item is on the Public Works Agenda as a tabled matter. He said his request is that the Public Works Committee consider both the Resolution the Committee tabled as well as the proposed Substitute Resolution.

Councilor Bushee asked the Chair if he wants to consider the Substitute Resolution tonight, even though it was advertised as just for the City to consider pursuing the lease of office space at Market Station at the Railyard.

Chair Ortiz said no, what he's saying is he's asking Public Works to consider it so it's on its Agenda on Monday.

Councilor Bushee said then you don't want to discuss it this evening.

Chair Ortiz asked Mr. Zamora if the Committee can discuss the Substitute Resolution tonight.

Councilor Bushee pointed out that this item is advertised as "Approval of a Resolution directing staff to explore and pursue the lease by the City of office space at Market Station at the Railyard."

Chair Ortiz understands the Substitute Resolution encompasses that title, and this is in the nature of a substitute, and could be put in place of it at Committee or even the City Council.

Councilor Bushee said the Resolution has more specificity about the actual lease, but the Substitute Resolution is a reiteration of the Resolution passed last fall, inserting "to pursue City lease of office space under phase 1 and 2," and doesn't really encompass everything. She believes we should be discussing what was advertised and discussing specifics and advantages and disadvantages of the lease in particular, which is now tied to some threatened litigation. She asked Mr. Zamora how to proceed.

Mr. Zamora said, with regard to the propriety of considering the Substitute Resolution, the Councilors have different obligations at the Committee level than at the Council level. He said part of the publication at the Council level is actually publishing the resolution itself for public review and input, and public hearings for ordinances. He said what has been introduced at the Committee level is the original Resolution which has been noticed, which is "Request for approval of a Resolution directing staff to explore and pursue the lease by the City of office space at Market Station at the Railyard." He said what the Committee has is the Substitute Resolution which is based on the original Resolution. There are considerable amendments, but it is based on the original Resolution, and he believes this is sufficient at the Committee level to consider that this evening.

Councilor Bushee said, "Then you can also advise us at this point that in discussing the option of a capital lease at the railyard, in relationship to this threatened litigation, is advisable at this point."

Mr. Zamora said, "Councilor, Committee members, it is sort of complicated, but those are two separate issues. Threatened litigation is something that we discussed in executive session. It is not an action item, nor would I recommend the open discussion of threatened litigation. All that is being considered here is the Resolution and the contents of the Resolution. If you're asking me can we not consider a Resolution because of threatened litigation, it's my advice that you can and should consider those items separately."

Councilor Bushee said she is reading letters from Mr. Katz, the attorney for Ryco, that essentially the threat of litigation would go away if we were to approve this capital lease, noting this is her interpretation.

Mr. Zamora said, "Again, my advice remains the same for the Committee members and for you Councilor Bushee, that those issues should be separate and not intertwined."

Councilor Bushee said she is upset that we are being "put over a barrel." She would have been willing to consider the option of some kind of lease at the Railyard if it had come from staff, and all the pros and cons were before her. However, she doesn't have any of that information, so she doesn't find the Substitute Resolution necessary, because it just reiterates everything that was brought up the last time, and said, staff please bring all possible options on the Railyard before us. And "they" let us know that that is premature, that they are not ready for that. She said at this point she is going to move to not approve the Substitute Resolution.

Chair Ortiz said she can move to deny the original Resolution if she wants to do so.

Councilor Bushee said she is willing to see it as an option, but in the mix, and when it comes



forward from staff and not under the guise that it will put some threat of litigation at rest. She said, "That doesn't sit well with me, so I would vote against any action that is tied to the threat of litigation. I think it narrows down... We have little information before us, which I think we should be able to have all of the information before us, and I really find that... beyond distasteful. I just find that is never something that I respond to well."

**MOTION:** Councilor Bushee moved, seconded by Councilor Romero, to deny the original resolution and the Substitute Resolution, with Councilor Romero saying the second is with some direction to staff.

**DISCUSSION:** Councilor Romero said she would like to give direction in denying the Resolution as presented, to add that we have a Facilities Master Plan, and whatever we do has to be accordance with what we've already passed which is a Facilities Master Plan and the Railyard Master Plan. She is unsure where this fits in, if it's direction.

**CLARIFICATION OF MOTION:** Councilor Bushee said the motion is to deny the Substitute Resolution and the original Resolution because "you are inserting the Substitute Resolution."

Chair Ortiz said he introduced the Substitute Resolution and asked that the Public Works Committee consider this Resolution and the Substitute Resolution.

Councilor Bushee said she asked Chair Ortiz at the beginning of the discussion if he wanted to consider the Substitute Resolution this evening.

Chair Ortiz said we have it before us this evening, but it has been tabled at Public Works, and I have asked the Public Works Committee to consider the original Resolution and the Substitute Resolution. He said this is the only thing he said.

Councilor Bushee said she asked at the beginning of the discussion, if we are going to consider the Substitute Resolution, and she thought she heard the City Attorney say we could consider it.

Chair Ortiz said we can consider whatever we want to.

Councilor Bushee reiterated that her motion is to deny both Resolutions, because she found the second Substitute Resolution unnecessary, because it inserts the original Resolution into the discussion which "staff has not brought forward the options to us." She said you could direct staff, without a Resolution, to explore the pros and cons.

Chair Ortiz said that was what Councilor Romero was trying to do in looking for help on giving direction, but he didn't hear that in the form of an amendment to the motion.

Councilor Bushee said all she heard was that the Chair wanted the Committee to consider the Substitute Resolution tonight, because the lawyer didn't say we couldn't. She said, "And my point is, if the question was, bring back information and into the mix about pursuing a lease, I'm open to that discussion, but not under the... we've got to decide it now and under the threat of litigation. I honestly think that the Substitute

Resolution is unnecessary, that staff has yet to bring a response to our resolution from the Fall, that I wasn't here for, for the discussion, which amplifies the discussion. I understand trying to narrow it down and speed it up to some degree, because I don't like sitting there with a hole in the ground any better than anyone else. But, now, if it's just narrowed down to a threat of litigation, so now we better make a quick decision, and I don't have all that information in front of me, I'm gonna have to say I want to move to deny both."

Chair Ortiz asked Councilor Romero if this her understanding of her second – to deny both.

Councilor Romero said yes.

Councilor Dominguez said he is willing to hear both the Substitute Resolution and the original Resolution, because it has been tabled as two separate items at the next Public Works Committee meeting.

**VOTE:** The motion failed to pass on a voice vote, with Councilors Bushee and Romero voting in favor of the motion and Councilors Wurzburger and Dominguez voting against. The resulting vote was a tie, and Chair Ortiz voted against, defeating the motion..

**MOTION:** Councilor Wurzburger moved, seconded by Councilor Dominguez, to remand the Substitute Resolution to Public Works, and to remand this Resolution because it does have some specificity which is not included in the Substitute Resolution, so both would go back to Public Works Committee, so we have more time to look at the options and understand better what our options are.

**DISCUSSION:** Councilor Wurzburger said her motion is not based on her fear of litigation.

**CLARIFICATION OF THE MOTION:** Chair Ortiz asked if this is a motion to remand and then have it back to the Finance Committee, or to remand with no recommendation coming out of Finance Committee. Councilor Wurzburger said it is a remand to the Public Works Committee with no recommendation, so after it is considered at Public Works it can go to the City Council.

**CONTINUATION OF DISCUSSION:** Councilor Dominguez said to some degree, he agrees with Councilor Bushee, in terms that he would expect staff to be able to bring some information about a lease, or any other option which may exist, to the Public Works Committee, as directed in the initial Resolution, and that it not be so narrowly focused on what staff may think is the best option. He believes we need to be more broad in the perspective, in that we bring, as stated in the original Resolution, options to the meeting. This is his reason for supporting this motion – irregardless of what the numbers may be, whatever discussions you have had, including other options beyond those discussion, should be brought to the Public Works Committee meeting.

**CLARIFICATION:** Councilor Dominguez asked Councilor Wurzburger, for clarification, if we hear these as two separate items, if we still have the opportunity to table one in lieu of the other, so that would be part of the intention of the motion. Councilor Wurzburger said her intent in having both, is that it allows the possibility of discussing items which may be in one and not in the other, and to have further elaboration of

some of the issues we were discussing. Councilor Dominguez said he wanted to make sure this is part of the record.

**CONTINUATION OF DISCUSSION:** Councilor Romero said she voted against the motion, because in October 2009, we did give staff clear direction to give us a variety of options with how to complete the Railyard which included a variety of financing mechanisms. She said, "The first Resolution that's being brought forward for the lease is undermining the work that's already been started, and actually puts us a little bit further back, because the plans keep changing, not from staff, but from others. So, I will reiterate that staff has been given very clear direction, and that these two Resolutions, which are focused on leases, undermine even work that we've already done around facilities development, and around other opportunities that are coming forward that we haven't heard about. So, I just want it clear for the record, that staff is under obligation to come up with a variety of options from the 2009 Resolution that was passed unanimously."

Chair Ortiz said he will answer Councilor Romero's remarks as the principal sponsor of the 2009 Resolution, and said he accepted Councilor Romero's amendments which changed the direction given to staff at that time from pursuing a bond to pursuing options.

Chair Ortiz said, "I will state, unequivocally, that the Resolution, as it was intended back then, and both this Resolution that came from staff, and the Substitute Resolution which came from staff, are works in progress toward that goal that we gave direction to. There have been some members of this Governing Body that want specificity, and when specificity is put in a resolution, they say that that's the wrong path, and we need to have other options presented. And then there are other members of the Governing Body who don't want the specificity, but want to continue in a process, sort of like some karmic wheel, that continues to recycle options and to create a revisioning of a Railyard that was just not the purpose of the Resolution, that you're right, was passed unanimously. So, this Resolution, as it's been substituted, reaches the point in which some members of the Governing Body, particularly those who were at the 3-member Public Works Committee, wanted different options. Well, those different options are spelled out."

Councilor Ortiz continued, "At some point, some members of the Governing Body, are going to have to make a decision, or a call, on which of these options are palatable and which options are not palatable, and be ready to deal with the consequences. And that's the purpose of this Resolution, and the purpose why I introduced the original Resolution, and that's why I introduced the Substitute Resolution, again with commitment by Mayor Coss that he would cosponsor that amended Resolution. And that's the purpose of this Resolution. It's not for some underhanded reason. It's not because we're held under the barrel. The fact is that private parties can sue us at any time, and we are not subject to being dictated to by private parties. It is our decision to make. Some of us want to make it and some of us are reticent. And so, that's the understanding I have in moving forward with this."

Councilor Dominguez said, "I just want to make it clear for the record, that I'm not in any way saying that I support a lease. I just want to be able to see information about the pros and cons of any option. And so, that's what I'm looking for in terms of that information from staff. I know that they've been given clear direction, but quite frankly I haven't seen very many options."

Councilor Bushee asked if there is a deadline in the Substitute Resolution for bringing the information forward.

Chair Ortiz said no, although he thought about it. He wanted to talk to staff to see if their deadlines are hard or soft, before he inserted deadline language.

Councilor Bushee said, "I guess I don't understand the need for the new Resolution, unless you want to put a deadline and speed the process up, because it does nothing... I mean you could have picked up the phone and said, what about a lease option. Can you put that in the mix. So, I'm not sure I understand, other than this seems to have received some political urgency here that I don't... It's not helping me in my deliberations. It's not giving me any more information, and then it's attaching.... anyhow. So, what's the time frame."

Chair Ortiz asked Councilor Bushee if that is a rhetorical question.

Councilor Bushee said she wants to know if there is a time frame, and if the Chair wants to insert one in this. She said "You just said Councilor," that you were interested in getting to a decision more quickly, but there is nothing in the Resolution saying when the information is to be provided.

Mr. Zamora said, "There are some things within the legal scope, and that's who you have here before you, and there are many things outside the scope of the legal team and the Counsel's office, so I couldn't tell you what a definitive deadline is."

Councilor Bushee asked the Chair, again, if he is inserting a timeline.

Chair Ortiz said he is not, and he is deferring the Resolutions to the Public Works Committee and for now, will defer to staff on the discussions we had in executive session.

Chair Ortiz said, "If you want to raise items that are outside of executive session because it suits your political agenda with regard to the Resolution, you can."

Councilor Bushee said, "Councilor, I'm simply asking, what is the point of this Resolution.

Chair Ortiz said the point is to reach a decision point.

Councilor Bushee said, "And that's what you said. In response to that, I then said, how does this change the process we were already undertaking."

Chair Ortiz said, rather than saying pursuing options, it actually articulates options that this Governing Body is going to have decide upon. This is the difference between these proposed Resolutions, and the Resolution we passed in October 2009.

Councilor Bushee asked if the October 2009 Resolution didn't ask staff to bring options for us to decide upon.

Chair Ortiz said not the specific options which are listed in these Resolutions.

Councilor Bushee said, "So, you're saying that with this Substitute Resolution, you are now trumping the previous Resolution that was unanimously passed."

Chair Ortiz noted that the first whereas paragraph specifically incorporates the intent of the original Resolution.

Councilor Bushee said that's right, and asked how it is different. It doesn't even have a deadline and doesn't speed up the process at all.

Councilor Romero said, "Just to be clear, I didn't bring that Resolution with me, and I thought that would be important. I thought where it gave me heartburn was because it directed the City Manager to go forth and negotiate a lease, or negotiate something. And I didn't think it was in the purview of our then City Manager to do that kind of negotiations. So, in what is considered softening of the language or changing of the language, it was to be clear who the mandate was to, to negotiate, and to bring that to the Governing Body. So, as I recall that Resolution was too pointed in that it said, City Manager you will go forth and you will negotiate. I didn't think that was their purview. So, in the softening of that language, which I believe that that original Resolution still said go forth and get the options, that included lease. The lease discussion came in more recently, and I think that staff was incorporating all of those into the original discussion about options. So, I would agree that these are not furthering the goals of trying to give us information to make the best decision that we can. We're talking about taxpayers' dollars. So, in order to have the best information, I think staff was on that road. This doesn't get us anywhere closer, except that it meets some other agenda. So, I'm in agreement. I think where we're at right now is that you've remanded it to Public Works and let it go forth to Public Works. But, I just want to be clear that the original Resolution that you put forward was really more directive than I thought was possible."

**VOTE:** The motion was approved on a voice vote, with Councilors Wurzbarger, Romero and Dominguez voting in favor of the motion and Councilor Bushee voting against.

## **17. OTHER FINANCIAL INFORMATION**

There was no additional financial information.

## **18. MATTERS FROM THE COMMITTEE**

Councilor Romero noted there is an infill discussion at St. Vincent's Hospital which started this evening at 7:30.

Councilors Dominguez and Bushee said they would be about 15 minutes late for the Finance Budget session in the morning.

**19. ADJOURN**

There was no further business to come before the Committee, and the meeting was adjourned at 7:50 p.m.

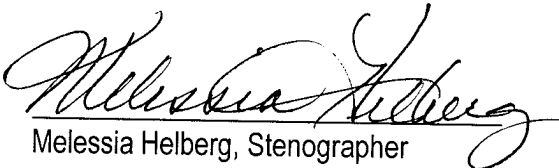
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Matthew E. Ortiz, Chair

Reviewed by:

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Kathryn R. Raveling, Acting Finance Director  
Department of Finance



Melessia Helberg, Stenographer